

SERVED DECEMBER 9, 2009
U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF HEARINGS
WASHINGTON, D.C.

DEC 17 10 PM 2:52

IN THE MATTER OF

ANDREW C. DILLOW,
Respondent.

DOCKET NO. FMCSA-2008-0249
(Federal Motor Carrier Safety Administration)

**ADMINISTRATIVE LAW JUDGE'S PREHEARING
ORDER, ESTABLISHING PROCEDURES**

This case has been assigned to me for the conduct of the hearing ordered by the Assistant Administrator on November 7, 2008. The proceeding is governed by the Rules of Practice For Motor Carrier, Broker, Freight Forwarder, and Hazardous Materials Proceedings. The full text of the Rules of Practice is found in 49 C.F.R. §§ 386.1--386.72. In order to expedite the consideration and disposition of the issues, the following principles and procedures will be followed:

1. Filing. All documents, pleadings, etc. required to be filed should be sent to:

U.S. Department of Transportation
Docket Operations, M-30
Room W12-140
1200 New Jersey Ave., S.E.
Washington, D.C. 20590

A copy of the document should also be sent to me and to the representative of the other party to the proceeding.

2. Mail. Although the Rules of Practice provide for service of papers by mail, the punctuality of the U.S. Postal Service's delivery of mail to offices in the Department is uncertain. When you send a notice or other pleading to me, you should use a private delivery service and/or provide me with a courtesy copy by e-mail or telefax.¹ My mailing address is:

Isaac D. Benkin
Administrative Law Judge
Office of Hearings
Department of Transportation (M-20)
Room E12-358
1200 New Jersey Ave., S.E.
Washington, D.C. 20590

3. Time and place of the hearing. I have tentatively scheduled this case for a hearing in Washington, D.C. starting on March 17, 2009. If the parties wish to request a different location or date for the hearing, they should do so within the next 30 days.

4. Extensions of time. If you plan to seek an extension of the deadline for filing of a document or taking of an action, including the location or date of the hearing, please first contact opposing counsel to find out whether there will be an objection to your request. Also, seek to secure agreement on an alternate date and time that is acceptable to all parties. I normally accept counsel's representation that there is no objection to a request for more time.

5. Discovery. The parties should begin their discovery now. Discovery must be completed within 60 days from the date of this order. The deadline for completion of discovery may be extended only for good cause shown. If a party objects to one or more discovery requests, it may file a motion for a protective order, attaching or incorporating the discovery request or requests to which it objects. If a party is dissatisfied with a response to discovery, it may file a motion to compel, attaching or incorporating the discovery request to which its motion relates.

¹ My fax number is (202) 366-7536. My e-mail address is david.benkin@dot.gov.

6. Dispositive motions. Motions for summary judgment and similar dispositive motions must be filed not later than February 17, 2009.

7. Exchange of witness lists and proposed exhibits. Not later than two weeks prior to the date of the hearing, i.e., on or before March 3, 2009, each party will provide to the other a list of the witnesses it intends to call at the hearing, together with a brief statement of the subject matter on which each witness will testify. In the case of an expert witness, a resume of the witness's relevant education, training, experience, and other qualifications shall also be furnished. In addition, parties are required to exchange copies of documents they intend to offer in evidence. A copy of the proposed exhibits and witness lists should be sent to me at the same time it is served.

8. Settlement. I encourage the parties to settle the case if it is possible to do so. The parties should discuss the possibility of settlement as soon as possible after this order is received and again once discovery is completed. If a settlement is reached, the parties should notify me as soon as possible. I cannot remove the case from the hearing docket, however, until I have received notification that a written settlement agreement has been executed in accordance with § 386.22 of the Rules of Practice.

9. Contacts with the judge. I cannot and will not discuss the case with any party, or its representative, on an ex parte basis. If a party has non-substantive matters it wishes to discuss, please contact my attorney-advisor, Mr. Ira Leibowitz. His telephone number is (202) 366-2139.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Isaac D. Benkin".

Isaac D. Benkin
Administrative Law Judge

Attachment-Service List

SERVICE LIST

ORIGINAL & ONE COPY

U.S. Department of Transportation
Dockets Operations, M-30
West Building Ground Floor
Room W12-140
1200 New Jersey Avenue, S.E.
Washington, DC 20590

ONE COPY

Andrew C. Dillow
5906 Sunset Avenue
Baltimore, MD 21207

Joseph A. Neenan, Esq.
The Neenan Office
P.O. Box 256
Rehoboth Beach, DE 19971
TEL: (302) 644-8726
FAX: (302) 644-8727

Anthony G. Lardieri, Esq.
Trial Attorney
Office of Chief Counsel (MC-CCE)
Federal Motor Carrier Safety Administration
Eastern Service Center
802 Cromwell Park Drive, Suite N
Glen Burnie, MD 21061
TEL: (443) 703-2248
FAX: (443) 703-2253

Barbara Webb-Edwards
Maryland Division Carrier Docket Clerk
Federal Motor Carrier Safety
Administration
10 South Howard St., Suite 4000
Baltimore, MD 21201

The Honorable Isaac D. Benkin
Administrative Law Judge
Office of Hearings, M-20
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
East Building, Ground Floor, Room E12-358
Washington, DC 20590
TEL: (202) 366-2144 FAX: (202) 366-7536